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10/823,994	04/13/2004	Yuji Ota	09657/0200614-US0	5002
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,994

Applicant(s)

OTA ET AL.

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,9-14 and 18-46 is/are pending in the application.
- 4a) Of the above claim(s) 9-14,18-27,31-34,36,37 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,28-30,35,38-43,45 and 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 08/20/07.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This is in response to amendment received on 10/12/07. Claims 1, 29 are amended, claims 2, 5 and 15-17 are cancelled, claims 9-14, 18-27, 31-34 and 36-37 are withdrawn and claims 38-46 are newly added.

Election/Restrictions

1. Newly submitted claim 44 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claim 44 is not directed to elected figures 3 and 4.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 44 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim 44 requires "an intermediate elastic band member extending obliquely from a middle portion of the front thigh elastic band member to an inner lower portion of the thigh leg member; an intermediate elastic band member extending obliquely from a middle portion of the front thigh elastic band member to an inner upper portion of the thigh leg member", which is not shown in figures 3 or 4.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 30 is rejected under 35 U.S.C. 102(b) as being anticipated by Fujii et al. (US 2001-192903).

In regard to claim 30, Fujii et al. teaches a garment with a crotch for covering at least part of a lower half of a body. A band-like pressure portion, having a front side portion corresponding to a front side of a crus (figure 22). A crus front side pressure portion formed obliquely from above to below the front side portion (1a). A rear side portion corresponding to a rear side of the crus (figure 24). The crus rear side pressure portion formed obliquely from above to below the rear side portion (5a).

4. Claims 1, 3, 4, 6, 28, 29, 35, 38-43, 45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenichi (JP 2002-212814).

Kenichi teaches the following:

1. (Currently Amended) A pants garment (1), comprising:
left and right thigh leg members for covering the left and right thigh areas of a wearer, each thigh leg member independently comprising a first thigh stretchable portion and a second thigh stretchable portion (see translated abstract),
wherein said second thigh stretchable portions (12a) have a greater tightening force for applying greater pressure than said first thigh stretchable portions (12b), and
independently include
a front thigh elastic band member (12a) provided substantially at a front side of each of the thigh leg members, said front thigh elastic band member extending obliquely from an upper front portion to a lower front portion of each thigh leg member (see figures 1

and 6), and

a back thigh elastic band member (11a) provided substantially at a back side of each of the thigh leg members, said back thigh elastic band member extending obliquely from an upper back portion to a lower back portion of each thigh leg member (see figure 6): wherein at least either one of the left thigh leg member or the right thigh leg member has the front thigh elastic band member (12a) extending from an outer upper portion to an inner lower portion of the left or right thigh leg member, respectively, and wherein the back thigh elastic band member (11a) extends from an inner upper portion to an outer lower portion of each thigh leg member (see figure 6).

3. (Previously presented) A garment as defined in claim 1, wherein at least either one of the left thigh leg member or the right thigh leg member has the front thigh elastic band member and the back thigh elastic band member inclined in the same direction (see figure 6).

4. (Original) A garment as defined in claim 1, wherein for each thigh leg member, the front thigh elastic band member and the back thigh elastic band member meet at least at an inner lower portion of the thigh leg member (figure 6).

6. (Previously presented) A garment as defined in claim 1, wherein at least either one of the left thigh leg member or the right thigh leg member has the front thigh elastic band member (12b) extending to a position corresponding to the left or right greater trochanter of a wearer, respectively (figure 6).

28. (Original) A garment as defined in claim 1, wherein the front thigh elastic band member extends from the lower part of the inside of the corresponding thigh to the

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corresponding greater trochanter via the upper part of the front surface of the corresponding thigh, and wherein said front thigh elastic band member is curved in an indented shape toward the upper part of the corresponding thigh (see figures 1 and 6).

29. (Currently Amended) A garment with a crotch for covering at least part of the lower half of a body, comprising:

a band-like pressure portion at least has, at a front side portion corresponding to the front side of a thigh, a thigh front side pressure portion (12a) formed obliquely from above to below the front side portion, and, at a rear side portion corresponding to the rear side of the thigh, a thigh rear side pressure portion (11a) formed obliquely from above to below the rear side portion

wherein the thigh front side pressure portion extends from an outer upper portion to an inner lower portion of the left or right thigh leg member, respectively, and

wherein the thigh rear side pressure portion extends from an inner upper portion to an outer lower portion of each thigh leg member (see figure 6).

35. (Previously presented) A garment as defined in claim 1, further comprising: left and right pelvic members attached to said thigh members for covering the right and left pelvic areas of a wearer (figure 6).

36. (Withdrawn) A garment as defined in claim 35, further comprising: an abdomen member attached to said pelvic members for covering the abdominal area of a wearer (figure 6).

38. (New) A pants garment, comprising: left and right thigh leg members for

covering the left and right thigh areas of a wearer, each thigh leg member independently comprising a first thigh stretchable portion (12b) and a second thigh stretchable portion (12b),

wherein said second thigh stretchable portions have a greater tightening force for applying greater pressure than said first thigh stretchable portions (see abstract), and independently include

a front thigh elastic band member (12a) provided substantially at a front side of each of the thigh leg members, said front thigh elastic band member extending obliquely from an upper front portion to a lower front portion of each thigh leg member (figure 6),

a first back thigh elastic band member (11a) provided substantially at a back side of each of the thigh leg members, said first back thigh elastic band member extending obliquely from an upper back portion to a lower back portion of each thigh leg member (figure 6), and

a second back thigh elastic band member extending from an upper portion to a lower portion of said thigh leg member, such that the first and second back thigh elastic bands on said thigh member cross each other (figure 6).

39. (New) A garment as defined in claim 38, wherein at least either one of the left thigh leg member or the right thigh leg member has the front thigh elastic band member and the back thigh elastic band member inclined in opposite directions (figure 6).

40. (New) A garment as defined in claim 38, wherein at least either one of the left thigh leg member or the right thigh leg member has the front thigh elastic band member and the back thigh elastic band member inclined in the same direction (figure 6).

41. (New) A garment as defined in claim 38, wherein for each thigh leg member, the front thigh elastic band member and the back thigh elastic band member meet at least at an inner lower portion of the thigh leg member (see figure 6).

42. (New) A garment as defined in claim 38, wherein at least either one of the left thigh leg member or the right thigh leg member has the front thigh elastic band member extending to a position corresponding to the left or right greater trochanter of a wearer, respectively (figure 6).

43. (New) A garment as defined in claim 38, wherein the front thigh elastic band member extends from the lower part of the inside of the corresponding thigh to the corresponding greater trochanter via the upper part of the front surface of the corresponding thigh, and wherein said front thigh elastic band member is curved in an indented shape toward the upper part of the corresponding thigh (figure 6).

45. (New) A garment as defined in claim 38, further comprising:
left and right pelvic members attached to said thigh members for covering the right and left pelvic areas of a wearer (figure 6).

46. (New) A garment with a crotch for covering at least part of the lower half of a body, comprising:

a band-like pressure portion at least has, at a front side portion corresponding to the front side of a thigh, a thigh front side pressure portion (12a) formed obliquely from above to below the front side portion, and, at a rear side portion corresponding to the rear side of the thigh, a thigh rear side pressure portion (11a) formed obliquely from above to below the rear side portion and a second thigh rear side pressure portion

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extending from an upper portion to a lower portion of said thigh leg member, such that the first and second thigh rear side pressure portions on said thigh member cross each other (figure 6).

Response to Arguments

5. Applicant's arguments with respect to claims 1, 3, 4, 6, 28, 29, 35 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments filed 10/12/07, in regard to claim 30 have been fully considered but they are not persuasive.

Claim 30 is the only independent claim that was not amended or newly added. Claim 30 remains rejected over Fujii as described above. Applicant argues that Fujii fails to teach a crus front and rear portion, since Fujii teaches a short garment to the knee.

Examiner notes that the claim only states that there are front and rear crus portions that correspond to a front side and rear side of a crus. The crus begins at a femur or hind limb and extends to the ankle. Fujii teaches a front and back crus portion extending along the femur and hind limb. There is no limitation that requires the front and rear portions to extend the entire length of the user's crus.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to 3 whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH

/Alissa L. Hoey/
Primary Examiner, Art Unit 3765